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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,653	12/08/2008	Christopher Henry Such	0446-0188PUS1	2764
2292 7590 08/04/2011 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER				
MESH, GENNADIY				
ART UNIT		PAPER NUMBER		
1763				
NOTIFICATION DATE		DELIVERY MODE		
08/04/2011		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

### Office Action Summary

**Application No.**

10/587,653

**Applicant(s)**

SUCH ET AL.

**Examiner**

GENNADIY MESH

**Art Unit**

1763

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 May 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5-9, 12, 15-18, 20, 21, 23, 24, 27, 30, 31, 34-37, 39-41 and 43-53 is/are pending in the application.
- 4a) Of the above claim(s) 1-3, 5, 6, 8, 9, 12, 15, 37, 39-41 and 43-52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-18, 20-21, 23-24, 27, 30-31, 34-36 and 53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (P-TO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1.1. Applicant's amendment filed May 17, 2011 are acknowledged.

Claims 4, 7, 10-11, 13-14, 19, 22, 26-26, 28-29, 32-33, 38 and 42 have been canceled. Claims 1-3, 5, 6, 8, 9, 12, 15, 37, 39 - 41 and 43-52 have been withdrawn. Claim 53 is newly added. Support for Claim 53 has been found as indicated by Applicant. No other amendments to claims have been made in this Amendment. Therefore, no New Matter has been added with this Amendment.

1.2. No New Grounds of Rejection were introduced in response for this Amendment. Thus, it is proper to make this action Final.

### ***Abstract***

2. New Abstract filed on May 17, 2011 is acknowledged and accepted.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 103***

3. Claims 16-18, 20-21, 23-24, 27, 30-31, 34-36 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritchie et al. (US 6,533,967) in view of Papastavros et al. (US 5,056,996 - reference cited by Applicant).

Rejection was adequately set forth in paragraph 5 of preceding office action mailed on February 17, 2011 and incorporated herein by reference.

In addition and regarding new claim 53 note, that claim 53 has same limitations as rejected claims 16 and 24 combined together. Therefore, cited combination of prior art as Ritchie and Papastavros is applicable to claim 53.

### ***Response to Arguments***

4. Rejection of Claims 16-18, 20, 27, 30 and 34-36 under 35 U.S.C. 103(a) as being unpatentable over Ritchie et al. (US 6,533,967) has been withdrawn.
5. Applicant's arguments filed on May 17, 2011, related to Claims 16-18, 20-21, 23-24, 27, 30-31, 34-36 and 53 rejected under 35 U.S.C. 103(a) as being unpatentable over Ritchie et al. (US 6,533,967) in view of Papastavros et al. (US 5,056,996) have been fully considered but they are not persuasive.
  - 5.1. Applicant's arguments related to Claims 16-18, 20-21, 23-24, 27, 30-31, 34-36 and 53 rejected under 35 U.S.C. 103(a) as being unpatentable over Ritchie et al. (US 6,533,967) in view of Papastavros et al. (US 5,056,996) based on:
    - a) alleged deficiency of individual references and b) statement that references can not be combine.
  - 5.2. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Specifically, Applicant stated that "... Although related to the manufacture of polyester granules, Ritchie US '967 fails to identify any problem associated with high styrene monomer residues present in polyester granules, let alone propose an approach for addressing such a problem".

However, this applicant's argument that the reference fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., styrene monomer content in polyester granules) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

5.3. Regarding secondary reference Applicant stated: "Papastavros US '996 is not related in any way to the preparation of polyester granules, let alone addressing the problem of high styrene monomer residue present in such granules. One of ordinary skill in the art would not be motivated in any way to combine the disclosure of Papastavros US '996 with the disclosure of Ritchie US '967".

However, specific styrene content of polyesters granules is outside of Applicant's claimed subject matter.

In addition note, that rationale to combine references was clearly stated in rejection as : "it would be obvious to one of ordinary skill in the art to add second peroxide in molar ratio 1:1 per teaching of Papastavros to initiating system used in process disclosed by Ritchie in order to conduct process efficiently and with out excessive exotherm".

Regarding this rational, Applicant stated that, because process of Ritchie is different than process of Papastavros than teaching of Papastavros related to use second peroxide in order to control exotherm during reaction would not be applicable to Ritchie. However, it is clear to ordinary skill in the art, that control of polymerization temperature is very important in any polymerization process. Applicant did not produced any evidence that process of Ritchie does not require stable temperature during polymerization and that outcome of this process will be not affected by exotherm or/and changing of polymerization temperature.

Therefore, Applicant's arguments were found unpersuasive.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GENNADIY MESH whose telephone number is (571)272-2901. The examiner can normally be reached on 10 a.m - 6 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272 1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MILTON I CANO/  
Supervisory Patent Examiner, Art Unit 1763

Gennadiy Mesh  
Examiner  
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/GM/